App. F. IX-4

1926-7) File No. 118/26

Previous References (CB) Serial Nos. 1 to 3

Reserve

Later References
CB 140-27-NL
C.B. 13-33-NL

General and Revenue Secretariat.

Serial Nos. 1 to 3

Part B for March 1927

SUBJECT

Leave to Mr. S. Abdul Wajid, Deputy Commissioner of Income-tax

To The Comm. of Income-tax in Rgn
No 2614/C.B. dy 26/4/27

States that some doubt is felt as to whether an in charge Dy. Comm. of Income-tax can exercise all the functions of a Deputy Comm. under the Regulation & that only officiating arrangements should be made.

WD 01229—GPB—37,500—1-9-26

General and Revenue Secretariat | C.S. File No. 112 (867) of 1926.

Serial No.

From the Commr. of Income-tax
No. C. 355 d. 16.12.26

Sends an application on behalf of Mr. Abdul Wajid Dy Comr of I.T. for privilege leave for 15 days in continuation and recommends sanction of the same, Mr. G. Madhavadas, Asst. Commr., being placed in charge.

The comptroller's leave certificate has been furnished.

Sufficient advance intimation has not been given though the S.O. require 6 weeks' notice.

Draft notfn is submd.

(Council matter)

Submd
C&R 18/12/26

What are the powers you
will be placed in charge under
the Income-Tax Act? Can
he exercise all the statutory powers?

Secy to Govt
with compliments

'Commissioner', 'Deputy Commissioner'
etc are defined as 'a person appointed to be
Commissioner & Deputy Commr of Income-tax
respectively. [See sec 2 (6) (6b)].

I cannot say whether an officer appointed
to be in charge of current duties can p

FINANCE SECRETARY
... JAN. ...
No. 26.1.0.

* Para 351 (2) of Manual of General Circulars

NOTE—Contn. Sheet

Serial No.

all the functions attached to that office. Ful Sect may perhaps be consulted.

Chief Sect with compts 3. 28/12

Mr. Abdul Wajid has since stated that he is in no need of the leave applied for. (Vide letter d. 21.12.26 from Income-tax Comm^r. put up)

Sealed 23/12/26

No further action is necessary on the leave appl^n but the Fin Secy who is consulted on 6 upthere an Offr who is in charge can under the law exercise all the powers

g. T. Scott

Fl 1910-26 23.12.26

Fl Scott. 28/1

2157 29/12/26.

The Govt have abolished the system of placing an Offr in charge of circles, and of granting charge allowances under our regulations as they now stand the in-charge offrs is supposed to be entrusted with the

FINANCIAL SECRETARIAT. 15. JAN. 1927 Fl. 1910-26

NOTE—Contn. Sheet

WD 01229—GPB—37,500—1-9-26

Serial No.

duties of the new office fully, and he ~~so~~ only contemplate the grant of half a three-fourths of the acting allowance otherwise admissible according as the in charge arrangement — is in addition to the official own legitimate duty or in dependent of it.

In special case the full acting allowance of 20 p.c. may also be given to an in charge given under art. 65 - C.S.R.

Unless ~~charge~~ the law ~~of~~ ~~vests~~ vests in any one full powers to perform the duties of an office to the incumbent in whatever capacity he may hold it, I am inclined to think that the in-charge officer is an officer who is appointed to be in ~~current~~ charge of the current duties ~~Govt.~~ is not presumed to exercise the statutory functions assigned to ~~the holder of~~ to the permanent holder of the office —

h
15.1.27

Dr Leg)

[illegible]
17/1

The question is whether an Assistant Commissioner of Income-tax placed in charge of the current duties of the Deputy Commissioner of Income-tax in addition to his own, can exercise the statutory functions of -- the Deputy Commissioner under Section 3 of the Income-tax Regulation. Under Section 2 Clause (6) of the Income-tax Regulation ~~the~~ "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Income-tax under Section 5. Under Section 5, Clause (2) the Deputy Commissioner of Income-tax should be appointed by the Government by Notification in the official -- gazette. It follows that if Government intends that an officer ~~to~~ should exercise the powers of a Deputy Commissioner they should notify that that officer is appointed a Deputy Commissioner under the Regulation. It is only then that he can exercise his powers under Section 5.

A Notification placing an officer in charge of the current duties of a Deputy Commissioner without appointing him as Deputy Commissioner of Income-tax would not therefore authorise him to exercise the powers of a Deputy Commissioner.

In order that such an officer may exercise such power it seems to be necessary that a provision should be made for it in the Regulation itself, as in the case of the absence of Deputy Commissioners. Under the Land Revenue Code, Section (9) ~~it provides that~~ the Assistant of the higher rank present in the District shall, during the absence of the Deputy Commissioner, succeed temporarily to his office and shall be held to be the Deputy Commissioner of the District under that Regulation. Section 13 of the same Regulation makes a similar provision for a ~~Sheildar~~ Shanbhag to succeed temporarily to the Amildar's office during the absence

1097

of the Amildar. Under the Criminal Procedure Code also it is provided in Section 11 that whenever the office of a District Magistrate becomes vacant and any officer succeeds temporarily to the chief administrative centre of the District, such officer shall, pending the orders of the Government, exercise all the powers and perform all the duties respectively conferred and imposed by the Code on the District Magistrate.

In the absence of provisions in the Income-tax Regulation similar to the provisions of Section 9 and 13 of the Land Revenue Code and Section 11 of the Criminal - Procedure Code, the Assistant Commissioner of Income-tax placed in charge of the current duties of the -- Deputy Commissioner may not exercise the statutory functions of a Deputy Commissioner.

5321/57

B 38(c)(2)

8/57

I do not think any amendment of the law is necessary at any rate for the present. The remedy is to make an acting and not an in charge appointment whenever there is any vacancy of Dy. Cr. of Income Tax. For very short periods an acting arrangement would be found convenient. But in view of the fact that the Legislature may not be in session for following vacancies, legal opinion is obtained as to the alternative except amendment of law which would

not be taken up now. Let us consider it when the Rules in regard to the Criminal Procedure Code are taken up for amendments. The courts may be informed of the legal view.

We may consider it when the Rules in regard to the Criminal Procedure Code are taken up for amendments. The courts may be informed of the legal view.

We shall consider it when the Rules in regard to the Criminal Procedure Code are taken up for amendments. The courts may be informed of the legal view.

Staff.

Seri No.

Before closing this, let us see if the Gen Clauses Regulations provide for this point

LGR

A copy of the Regulations is put up (7e Q)

Draft letter is submitted.

hm
10/2/27.

I shall be obliged if the correctness of the proposed draft is once again examined in the light of Gen Clauses Regn

Secy L Dept
with compliments

LGR
11/2

I have examined the relevant provisions of the Gen'l Clauses Regn.

No provision in the Regn seems to have any bearing upon the point under discussion.

Sections 14 to 19 relate to the "Powers & Functionaries."

Sec 17 relates to the Substitution of functionaries.

The purport of this Section is that if a duty or obligation is imposed on any person for the time being executing the functions of an office by an enactment passed subsequent to the third day of Jan'y 1868, it shall be sufficient to mention the official title of the officer at present executing the functions in that enactment to indicate the application of law (ie imposing a duty or obligation) to that person.

Similarly Section 18, 4th refers to the act of mentioning the relation to the functionaries etc in the new enactment & to prescribe the duties of the Superior respectively in the new enactment

NOTE—Contn. Sheet

WD 01229—GPB—37,500—1-9-26
App F. III—2]

General and Revenue Secretariat | CB, File No. | of 1926.

Serial No.

Hence these provisions have no application to the appointment of a Deputy Commissioner of Income tax to perform statutory duties & in exercise of the powers vested in Govt under sec 5 of the Regn Cation V of 1923, & that draft terms to be correct.

I have taken the liberty of revising the draft to indicate fully the reasons for the conclusion arrived at.

Law 21/11/26.

Chief Sect
with Compts.

8/2
16/2
16/2

FINANCIAL SECRETARY
18 FEB. 1927
No. 2650

To Secy with compliments
MW
18/2

No remarks
h
20/2

May the Draft letter to the Income tax Comr as Revised by the Secy, Law Deptt, issue?
MW
22/2
hm
22/2/27

Issued as further revised
MW
25/2

3 To the Comm. Income-tax
No 2624 d. 26.2.27

States Some doubt is felt as to wh an in charge Dy. Comr. of I.T. can exercise all the functions of a D.C. under the Regn & that only Offg. arrp. should be made.

B.

NOTE—Contn. Sheet

I. T. 66]

36935

CB 118-24-1

In reply refer to
No. C. 355
Enc. 2-27

OFFICE OF THE COMMISSIONER OF INCOME-TAX IN MYSORE,

Bangalore.....16th December.....192 6

CB. 106 17/12/26 No. 2562

URGENT.

FROM

B. Ramaswamaiya, Esq., B.A., B.L.,
COMMISSIONER OF INCOME-TAX IN MYSORE.

19 — D.
Section.
File No.

REV. SECTT. 17 DEC. 1926 D. SECTION.

Recd. 18/12/26

P. G. D'Souza, Esq., B.A., B.L.,
Chief Secretary to the Government of Mysore,
Bangalore.

Sir,

I have the honour to forward herewith an application dated 8th December 1926 received from Mr. S. Abdul Wajid, Deputy Commissioner of Income Tax for Bangalore and Mysore Cities and Taluks, Bangalore for 15 days' privilege leave from 3rd January 1927 with permission to avail himself of the Christmas and New Year Holidays from 24th December 1926 to 1st January 1927 and Sunday the 2nd January 1927 and to recommend that the leave applied for may be sanctioned. Mr. Abdul Wajid will be entitled to 4 months privilege leave on 3rd January 1927, vide Comptroller's leave certificate No. 72 dated the 11th December 1926, enclosed.

2. During the absence of Mr. Abdul Wajid, Mr. G. Madhava Rao, B.A., B.L., Assistant Commissioner of Income Tax, Bangalore and Mysore Cities and Taluks, may be placed in charge of the current duties of the Deputy Commissioner of Income Tax in addition to his own.

I have the honour to be,
Sir,
Your most obedient servant,

B. Ramaswamaiya

Commissioner of Income Tax.

C. O. 399—G. A. D. 6]

COMPTROLLER'S OFFICE.

BANGALORE,

Finl.]

No. 72

Dated 11 : 12 : 1926.

OFFICE OF THE COMMISSIONER OF INCOME TAX IN MYSORE
Recd. DEC 14 1926
No. C. 355/26-27
Enclosures, if any. -

LEAVE CERTIFICATE.

Certified that Mr. S. Abdul Wajid, B.A.,
Deputy Commissioner of Income-tax,
under the Mysore Government ~~is~~ will be entitled to 4 months privilege
leave on 3rd January 1927
.....

Leave under Aricle 165 of the Mysore Service Regulations.

Forwarded with compliments to the Commissioner of Income-tax in Mysore

with reference to his ~~docket~~ letter No. C 355/26-27 dated 9 : 12 : 1926.

H. Venkatachar Rao
Asst Comptroller.

FROM

S. Abdul Wajid, Esq., B.A.,
Deputy Commissioner of Income Tax in Mysore, Bangalore.

OFFICE OF THE COMMISSIONER OF INCOME TAX IN MYSORE.
Recd. DEC 9 1926
No: C.355/26-27.
Enclosures, if any.

To

~~THE SECRETARY TO THE GOVERNMENT OF MYSORE,~~
The Commissioner of Income-Tax
in
~~DEPARTMENT~~ Bangalore.

Dated 8th December 1926.

Despatched 9.12.26

Received

General No. C 202 of 1926-27.
No.

Enclosure No. nil

Undersigned has the honor to submit an appllcation for leave on behalt of himself

.....

the particulart of which are given overleaf

~~Applicant has decorded the declaration prescribed in Section 442 of the Mysore Service Regulations.~~

.....

.....

DEPUTY COMMISSIONER OF INCOME TAX.

*To be omitted in cases other than privilege leave

WD 1084—GPE—5,000—17-12-21

APPLICATION FOR LEAVE

1.	Name of applicant	Mr. S. Abdul Wajid, B.A.,
2.	Rank and salary, including allowances	Rs.800/-. Deputy Commissioner of Income-tax for Bangalore and Mysore Cities and Taluks,
3.	District and station	Bangalore.
4.	Nature of leave applied for and section of the Service Regulations applicable	15 days privilege leave from 3rd Jan '27 with permission to avail the Christmas and New Year Holidays from 24th Dec. '26 to 1st January 1927 and Sunday the 2nd January 1927.
5.	From what date	3rd January 1927.
6.	Number and date of Comptroller's certificate in support of the title to the leave, period and nature of the leave certified to	
7.	Arrangements proposed for conduct of applicant's duties during his absence, and qualifications of the proposed officiator	The Assistant Commissioner of Income-tax may be placed in charge in addition to his own duties.
8	Other remarks, if any, such as necessity, urgency, etc.	Urgent private affairs.

A Abdul Wajid.

DEPUTY COMMISSIONER OF INCOME-TAX

MS.

I. T. 66]

37743

In reply refer to
No D. 2. Dis. 156/26-27
Enc.....

OFFICE OF THE COMMISSIONER OF INCOME-TAX IN MYSORE,

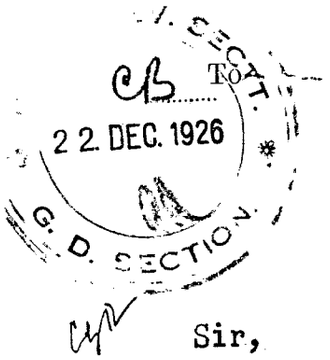
Bangalore. 21st December *192* 6

FROM

B. Ramaswamaiya, Esq., B.A., B.L.,
COMMISSIONER OF INCOME-TAX IN MYSORE.

C.S. 1097

CS 118-16-2



TO

P. G. D' Souza, Esq., B.A., B.L.,
Chief Secretary to the Government
of His Highness the Maharaja of Mysore,
Bangalore.

Sir,

In continuation of this office No. C.355/26-27 dated the 16th instant recommending the grant of 15 days' privilege leave from 3rd January 1927 to Mr. S. Abdul Wajid, Deputy Commissioner of Income Tax Bangalore and Mysore Cities and Taluks, I have the honour to state that as Mr. Abdul Wajid has since intimated that he is not in need of the leave applied for at present, the recommendation made in my letter referred to above is hereby with-drawn ~~drawn~~.

I have the honour to be,
Sir,
Your most obedient servant,

B Ramaswamaiya

Commissioner of Income Tax.

HCS
21/12/26

Confidential

D. 1624/C.B. 118-4-3

D. 26/2/27

Dear Sir,

With reference to the correspondence ending with your letter No. D2.Dis. k56 of 26-27 dated 21st December 1926, regarding leave to -- Mr. S.Abdul Wajid, Deputy Commissioner of Income-Tax, I am desired to - state for your information that, as it is doubtful if an In-Charge Deputy Commissioner of Income-Tax can exercise the duties and functions of the Deputy Commissioner of Income-Tax under Regulation V of 1923, only officiating appointments should be made. This fact may be kept in view in suggesting arrangements for filling up vacancies in future.

Yours sincerely,

Fair Copy sent

B.Ramaswamaiya, Esq., B.A., B.L.,
Commissioner of Income-Tax in
Mysore BANGALORE%

Confidential.

Dear Sir,

With reference to the correspondence ending with your letter No. D2.Dis.156 of 26-27 dated 21st December 1926, regarding leave to Mr. S. Abdul Wajid, Deputy Commissioner of Income-tax, I am desired to state for your information that ~~it is the opinion of the Legal Authorities that~~ as it is doubtful whether an In-Charge Deputy Commissioner of Income-Tax who is not specially entrusted with the functions of the D.C. of I.T. can exercise the duties and functions of the Deputy Commissioner of Income-Tax under Rule V of 1923. This fact may be kept in view in suggesting arrangements for filling up vacancies in future.

Yours sincerely,

Chief Secretary to Govt.

To

B. Ramaswamaiya, Esqr., B.A., B.L.,
Commissioner of Income-Tax
in Mysore.

10/2/27

MRN.